

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 135.11, the Department of Public Health hereby gives Notice of Intended Action to amend Chapter 76, “Maternal and Child Health Program,” Iowa Administrative Code.

The proposed amendments update references; add a heading for the Maternal and Child Health Advisory Council while incorporating the Council’s current bylaws into the rules; and clarify services provided through the maternal and child health programs.

These proposed amendments have been reviewed by the Maternal and Child Health Advisory Council and select individuals within the field and are posted on the Department’s Web site.

Following is a summary of the major changes from the existing chapter:

Item 8 adds “building relationships with community partners including health care providers and human service leaders to improve the health care system for women and children” to the list of infrastructure building services provided by contract agencies.

Item 10 adds “oral health survey” to the list of population-based services provided by contract agencies.

Items 11 and 12 add “referral,” “assistance in establishing a medical and dental home,” and “presumptive eligibility” to the list of enabling services provided by contract agencies.

Item 13 removes “informing,” “care/service coordination,” “health education,” “assistance in establishing a medical and dental home or usual source of care,” and “referral” services from the list of child health services while at the same time adding to the list “immunizations,” “blood lead testing and analysis,” “developmental testing,” “home visit provided by a nurse or social worker,” “interpretation services” and “transportation services.” Item 13 also removes “care/service coordination” from the list of maternal health services while at the same time adding “home visit provided by a nurse or social worker,” “interpretation services” and “transportation services.” Finally, Item 13 adds “prophylaxis” and “radiographs” to the list of dental health services.

Item 14 renames the “Prenatal program” as the “Maternal health program” and changes “CHSC” to “CYSHCN program.”

Item 17 adds a Presumptive Eligibility Health Care Coverage for Children Application form to the forms that may be used to apply for direct health services.

Item 22 clarifies how a tie would be reviewed during a competitive process.

Item 25 clarifies rules for using program income related to MCH programs.

Item 30 incorporates the Maternal and Child Health Advisory Council’s current bylaws into the rules.

Any interested person may make written suggestions or comments on these amendments on or before August 14, 2012. Written materials should be directed to Andrea Kappelman, Department of Public Health, 321 E. 12th Street, Des Moines, Iowa 50319-0075; fax (515)242-6013; e-mail andrea.kappelman@idph.iowa.gov.

Also, a public hearing will be held on Tuesday, August 14, 2012, from 9 to 11 a.m. on GoToMeeting. Interested persons may join the meeting by computer by accessing the following Web site: <https://www1.gotomeeting.com/register/265192552>. The use of microphone and speakers (VoIP) or a headset is recommended. Interested persons may also join the meeting by telephone in the United States and Canada, toll-free, at 1-877-568-4108; the access code is 803-892-592, and an audio PIN will be shown after the person joins the meeting. Persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact the Department of Public Health and advise staff of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code subsection 135.11(17) and section 135.39. The following amendments are proposed.

ITEM 1. Amend rule 641—76.1(135) as follows:

641—76.1(135) Program explanation overview. The maternal and child health (MCH) programs are operated by the Iowa department of public health as the designated state agency pursuant to an agreement with the federal government. The majority of the funding available is from the Title V, MCH services block grant, administered by the Health Resources and Services Administration (HRSA) within the United States Department of Health and Human Services (DHHS).

76.1(1) Purpose. The purpose of the program is to promote the health of mothers, ~~and~~ children, and youth by ensuring or providing access to quality maternal and child health care services (especially for low-income families or families with limited availability of health care services); to reduce infant mortality and the incidence of preventable diseases and handicapping conditions; to increase the number of children appropriately immunized against disease; and to facilitate the development of community-based systems of health care for children, youth and their families. The program provides and promotes family-centered, community-based coordinated care, including care/service coordination for children and youth with special health care needs.

76.1(2) Services.

a. The department's ~~family services~~ bureau of family health (BFH) enters into contracts with selected private nonprofit or public agencies for the assurance of access to prenatal and postpartum care for women, preventive and primary child health care services, and services to children and youth with special health care needs. The types of services provided by these contracts are infrastructure building, population-based services, enabling services, and direct health care services.

b. The department's ~~dental health~~ bureau of oral and health delivery systems (OHDS) collaborates with the ~~family services~~ bureau BFH to develop oral health programs to reduce barriers to oral health care and reduce dental disease through prevention.

c. The children and youth with special health care needs program is administered by the Child Health Specialty Clinics (CHSC); at the University of Iowa. The department contracts with the University of Iowa department of pediatrics' ~~Child Health Specialty Clinics~~ CHSC to provide services to for children and youth with special health care needs, including infrastructure building, direct clinical care, care coordination and family support. In accordance with the ~~Maternal and Child Health Services MCH Title V Block Grant Program administered by the U.S. Department of Health and Human Services DHHS, Health Resources and Services Administration Maternal and Child Health Bureau, HRSA, and MCHB,~~ the CHSC shall ensure that public health funds will be used to cover the cost of services only after all other sources of reimbursement have been exhausted.

76.1(3) MCH advisory council. The MCH advisory council assists in ~~the development of developing~~ the state plan for MCH, ~~including children with special health care needs and family planning.~~ The advisory council assists with assessment of assessing need, ~~prioritization of~~ prioritizing services, ~~establishment of~~ establishing objectives, and ~~encouragement of~~ encouraging public support for MCH and family planning programs. In addition, the ~~advisory~~ council advises the director regarding health and nutrition services for women and children, supports the development of special projects and conferences and advocates for health and nutrition services for women and children. ~~The director appoints the council membership. Membership shall include parents of and service providers for children with special health care needs. The council membership shall also include the chairs, or designees, of the department's advisory committee for perinatal guidelines, and the birth defects advisory committee to ensure coordination of their respective issues and priorities. The chair of the~~

~~family services bureau grantee committee or the designee of the chair may serve as an ex officio member of the council.~~

ITEM 2. Amend rule 641—76.2(135) as follows:

641—76.2(135) Adoption by reference. Federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239), Title V; MCH services block grant shall be the rules governing the Iowa MCH program and are incorporated by reference herein.

~~The department finds that certain rules should be exempted from notice and public participation as being a very narrowly tailored category of rules for which notice and public participation are unnecessary as provided in Iowa Code section 17A.4(2). Such rules shall be those that are mandated by federal law governing the Iowa MCH program where the department has no option but to adopt such rules as specified and where federal funding for the MCH programs is contingent upon the adoption of the rules.~~

Copies of the federal legislation adopted by reference are available from Chief, Family Services Bureau of Family Health, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 3. Amend rule 641—76.3(135) as follows:

641—76.3(135) Rule coverage. These rules cover agencies contracting with the department to provide community-based MCH public health care services and to receive funds from the department for that purpose. The contract agencies conduct essential public health care services directed toward ~~the maternal and child health~~ MCH populations consistent with the state's Title V MCH services block grant state plan. The state plan is developed and administered collaboratively by ~~the family services bureau BFH and OHDS~~ of the department and CHSC.

ITEM 4. Rescind the definitions of “HCFA,” “MCH services,” “Nutrition screening,” “Performance standards” and “Pharmacist” in rule **641—76.4(135)**.

ITEM 5. Adopt the following new definitions in rule **641—76.4(135)**:

“*BFH*” means the bureau of family health.

“*Chairperson*” means the chairperson of the MCH advisory council, who has been elected by the majority of the council’s members.

“*Council*” or “*MCH advisory council*” means the maternal and child health advisory council.

“*HRSA*” means the Health Resources and Services Administration with the United States Department of Health and Human Services.

“*I-Smile™ program*” means the department program implemented through public and private nonprofit agencies and private health care providers to increase access to dental care for children and to ensure a dental home.

“*MIECHV*” means the Maternal, Infant and Early Childhood Home Visiting program.

“*Nutrition counseling*” means therapeutic nutrition services appropriate to the needs of the client, provided by a licensed dietitian.

“*OHDS*” means the bureau of oral and health delivery systems.

“*Presumptive eligibility determination*” means temporary Medicaid eligibility that pays for medical services while a formal Medicaid decision is being made by the Iowa department of human services. For pregnant women, presumptive eligibility determination is based only on a woman’s statement regarding her family income. A qualified provider can presume that the pregnant women who are Iowa residents will be eligible for Medicaid. Qualified providers can grant Medicaid coverage to these women to pay for the cost of ambulatory prenatal care. Presumptive Medicaid eligibility begins with the date the qualified provider determines the woman is eligible and continues through the last day of the next month.

ITEM 6. Amend the following definitions in rule **641—76.4(135)**:

“*Care/service coordination*” or “*care coordination*” means a ~~process of linking the service system to the recipient and organizing the various elements in order to achieve a successful outcome.~~ The terms “care coordination” and “service coordination” may be used interchangeably. comprehensive,

family-centered approach that proactively engages and links clients and families to needed health care services, including medical, dental, emotional, behavioral, and health education services. Care coordination encompasses a specific set of activities that promote a client's potential for optimal health and facilitate quality outcomes. By working with the client, family, and other involved disciplines, a care coordinator can promote seamless access and a holistic approach to service provision. Care coordination incorporates the following:

1. Meaningful assessment of needs and concerns.
2. Shared development of care plans.
3. Mobilization of agency and community resources.
4. Continued monitoring and follow-up.
5. Clear and transparent communication.
6. Complete documentation.

"Children and youth with special health care needs (CSHCN)" or "CYSHCN" means children and youth with chronic physical, developmental, behavioral, or emotional conditions that require health and related services of a type or amount beyond that required by children and youth generally.

"CHSC" means Child Health Specialty Clinics, a statewide program for children and youth with special health care needs authorized under Title V of the Social Security Act.

"CMS" means the United States Department of Health and Human Services DHHS Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration).

"Dental home" means a usual source of dental care where dental care services are provided in a primary care setting where care is accessible, family-centered, continuous, comprehensive, coordinated, compassionate, and culturally competent. In addition, the dental care provider and parents partner to identify and access all the dental and nondental services needed to help children and their families achieve maximum oral health network of individualized care based on risk assessment, which includes oral health education, dental screenings, preventive services, diagnostic services, treatment services, and emergency services.

"Enabling services" means services that allow or provide for access to and the derivation of benefits from, the array of basic health care services and include activities such as outreach, case management, health education, transportation, translation, home visiting, smoking cessation, nutrition, support services, and others are designed to help families gain access to health care. Enabling services include but are not limited to outreach, informing/reinforming, and care coordination services to link women, children, and families to needed health care services.

"Gap filling" means direct health care services supported by Title V staff or resources that are needed by children with special health care needs but are not otherwise accessible in the community.

"Health care services" means services provided through MCH contract agencies.

"Infrastructure building" means activities directed at improving and maintaining the health status of all clients by providing support for the development and maintenance of comprehensive health services systems including development and maintenance of health services standards or guidelines, training, data, and planning systems. that support developing and maintaining comprehensive health care service systems. These activities include but are not limited to needs assessment, data collection, strategic planning, working with community partners, developing protocols, quality assurance, and training.

"Medical home" means a usual source of health care where the physician/health care provider is available to coordinate preventive, primary and follow-up care at all times (24 hours per day, seven days per week) for the patient while maintaining the client's health records. In addition, the physician/health care provider and parents partner to identify and access the medical and nonmedical services needed to help children and their families achieve their maximum potential team approach to providing health care that originates in a primary care setting; fosters a partnership among the client, the personal provider, and other health care professionals, and where appropriate, the client's family; utilizes the partnership to access all medical and nonmedical health-related services needed by the client and the client's family to achieve maximum health potential; maintains a centralized, comprehensive record of all health-related services to promote continuity of care; and has all of the characteristics specified in Iowa Code section 135.158.

“Oral health counseling” means services to assess oral health status and to provide education appropriate to the needs of the client and referral ~~to a dentist for dental care~~ if indicated.

“Performance measures” means ~~a narrative statement that describes a specific maternal and child health need or requirement that, when addressed, will lead to a specific health outcome within a community and generally within a specified time frame~~ National Performance Measures (NPM) and State Performance Measures (SPM) required through the HRSA, Maternal and Child Health Bureau (MCHB), Title V MCH Block Grant.

“Physician” means a person currently licensed to practice ~~medicine and surgery, osteopathic medicine and surgery, or osteopathy~~ under Iowa Code chapters chapter 148 and 150A.

“Population-based services” means ~~preventive interventions and personal health services, developed for and available to the entire MCH population of the state rather than for individuals in a one-on-one situation. Disease prevention, health promotion, and statewide outreach are major components.~~ services that include preventive personal health care services for groups of individuals (rather than one-on-one). Payer status of the individuals is not assessed, and services are not billed. Population-based services may be provided to an entire community, county, or region. Examples include but are not limited to mass immunizations, classroom oral health education, and the use of media for health promotion and education.

“Program income” means gross income earned by the MCH contract agency resulting from activities in which part or all of the cost is either borne as a direct cost by the funds received from the department or counted as a direct cost toward meeting cost-sharing or matching requirements of the contract agency related to fulfilling the terms of the contract. “Program income” includes but is not limited to such income ~~in the form of~~ as fees for services, third-party reimbursements, and proceeds from sales of tangible, personal or real property.

“Title V” means Title V of the Social Security Act and the federal requirements contained in the Omnibus Reconciliation Act of 1989 (Public Law 101-239) which address the ~~Maternal and Child Health MCH and Children with Special Health Care Needs~~ CYSHCN programs.

ITEM 7. Amend paragraph **76.5(1)“h”** as follows:

h. Development of state plan and annual report in conjunction with ~~the family services bureau~~ BFH, OHDS, and CHSC.

ITEM 8. Adopt the following **new** paragraph **76.5(1)“j”**:

j. Building relationships with community partners including health care providers and human service leaders to improve the health care system for women and children.

ITEM 9. Amend paragraphs **76.5(2)“e”** and **“f”** as follows:

e. ~~Childhood~~ Testing for childhood lead poisoning screening.

f. Support screening and follow-up for ~~sickle cell disease and other hemoglobin~~ congenital and inherited disorders.

ITEM 10. Adopt the following **new** paragraph **76.5(2)“g”**:

g. Oral health survey.

ITEM 11. Amend paragraphs **76.5(3)“g”** and **“i”** as follows:

g. ~~Parent-to-parent~~ Family-to-family support for families who have children and youth with special health care needs.

i. ~~Revised IAB 2/6/02, effective 3/13/02.~~ Referral.

ITEM 12. Adopt the following **new** paragraphs **76.5(3)“j”** and **“k”**:

j. Assistance in establishing a medical and dental home.

k. Presumptive eligibility.

ITEM 13. Amend paragraphs **76.5(4)“a”** to **“d”** as follows:

a. Child health.

(1) ~~Informing~~ Immunizations.

(2) ~~Care/service coordination~~ Blood lead testing and analysis.

- (3) Nutrition counseling.
- (4) Psychosocial services.
- (5) ~~Parenting~~ Related anticipatory guidance and parenting education.
- (6) ~~Health education~~ Developmental testing.
- (7) Well-child health care services include routine, ambulatory well-child care.
- (8) ~~Assistance in establishing a medical and dental home or usual source of care~~ Home visit provided by nurse or social worker.

(9) ~~Referral~~ Interpretation services.

(10) Transportation services.

b. ~~Prenatal Maternal health—prenatal and postpartum services.~~

(1) ~~Care/service coordination.~~

(2) (1) Risk assessment.

(3) (2) Psychosocial screening assessment and counseling.

(4) (3) Nutrition assessment and counseling.

(5) (4) Health education.

(6) (5) Routine, ambulatory prenatal medical care, postpartum exams, and family planning services.

(6) Home visit provided by a nurse or social worker.

(7) Interpretation services.

(8) Transportation services.

c. ~~Dental health—maternal and child.~~

(1) Oral screening.

(2) Dental treatment services through referral.

(3) Oral health education and counseling for the prevention of dental disease.

(4) Fluoride varnish application.

(5) Dental sealant application.

(6) Prophylaxis.

(7) Radiographs.

d. ~~Children and youth with special health care needs. Community-based pediatric subspecialty clinic services that are “gap filling.”~~

ITEM 14. Amend paragraphs **76.6(1)**“a” to “c” as follows:

a. ~~Prenatal Maternal health~~ program—no age restrictions.

b. ~~Child health care services~~ program—birth through 21 years of age.

c. ~~CHSC CYSHCN~~ program—birth through 21 years of age.

ITEM 15. Amend subrule 76.6(2) as follows:

76.6(2) ~~Income.~~

a. No change.

b. ~~Income information will be provided by the individual, who will attest in writing to the accuracy of the information contained in the application.~~

c. ~~Proof of Title XIX, or Title XXI (HAWK-I), or WIC eligibility will automatically serve in lieu of an application.~~

d. and e. No change.

f. ~~Individuals will be screened for eligibility for Title XIX, and Title XXI (HAWK-I), and WIC. If an individual’s income falls within the eligibility guidelines for Title XIX, and Title XXI (HAWK-I), or WIC, the individual should may be referred to the Iowa department of human services or other enrollment source to apply for coverage. Pregnant Children, youth and pregnant women shall be considered for Title XIX presumptive eligibility. Children shall be considered for Title XIX eligibility to the extent these activities are approved by the Iowa department of human services.~~

g. An individual whose income is above the poverty level established by Title XXI and below 300 percent of the federal poverty guidelines will qualify for services on a sliding fee scale, as determined by the local agency’s cost for the service. The department provides annual guidelines based on poverty

levels established annually by DHHS. An individual whose income is at or above 300 percent will qualify for services at full fee.

h. No change.

ITEM 16. Amend subrules 76.6(4) and 76.6(5) as follows:

76.6(4) *Pregnancy.* An individual applying for the prenatal program shall have verification of pregnancy by an independent health provider, ~~by the maternal health contract agency, or by a family planning (Title X) agency, or a positive home pregnancy test.~~

76.6(5) *Children and youth with special health care needs.* An individual applying for CHSC services shall be determined to have a special health care need as defined by the federal MCH bureau ~~MCHB~~. ~~Children aged 0 to 21 residing in Iowa with or at risk of having a special health care need are eligible for CHSC services.~~ Care/service coordination, family support or other non-clinic services are provided at no charge to the family. Clinic services are provided without charge to families with adjusted gross incomes below 185 percent of the federal poverty ~~guideline~~ guidelines. Families above this threshold are responsible for payment according to a sliding fee scale based on tax exemptions, adjusted gross income, and extenuating circumstances.

ITEM 17. Amend subrules 76.7(1) and 76.7(2) as follows:

76.7(1) A person or the parent or guardian of a minor desiring direct health services other than those provided to children and youth with special health care needs ~~shall~~ may apply to a contract agency using a Health Services Application, Form 470-2927, 470-2927(~~SP S~~), Presumptive Eligibility Health Care Coverage for Children Application, Form 470-4855, 470-4855(S), or the alternate form authorized by the HAWK-I board.

76.7(2) The contract agency shall verify the following information to ~~apply for MCH~~ receive services under this the Title V MCH program:

- a.* The information requested on the application form under “Household Information.”
- b.* Income information for all family members or proof of eligibility for Title XIX (Medicaid), ~~or~~ Title XXI (HAWK-I), or WIC.
- c.* Information about health insurance coverage.
- d.* The signature of the individual or responsible adult, dated and witnessed.
- e.* ~~For pregnant women, denial of benefits under Title XIX (Medicaid) due to economic or categorical ineligibility.~~

ITEM 18. Amend subrule 76.7(7) as follows:

76.7(7) A family seeking direct health care or care/service coordination services, or family support for a child or youth with special health care needs shall follow CHSC policies and procedures. Insurance status and eligibility for the sliding fee scale are determined during the ~~patient~~ client registration process.

ITEM 19. Amend subrule 76.8(2) as follows:

76.8(2) *Notification of appeal rights and right to hearing.* Individuals applying for MCH services shall be notified of the right to appeal and the procedures for requesting a hearing at the time of application for MCH services. Information about the appeal and hearing process shall be provided in writing and shall be immediately available at ~~maternal and child health~~ MCH centers. A health professional shall be available to explain the method by which an appeal or hearing is requested and the manner in which the appeal and hearing will be conducted.

ITEM 20. Amend subrule 76.8(5) as follows:

76.8(5) *Hearing officer.* The hearing officer shall be impartial, shall not have been directly involved in the initial determination of the action being contested, and shall not have a personal stake in the decision. Hearing officers may be contract agency directors, health professionals, community leaders, or any impartial citizen. If prior to the hearing, the appealing party objects to a contract agency director serving as the hearing officer in a case involving the director’s own agency, another hearing officer shall be selected and, if necessary, the hearing shall be rescheduled as expeditiously as possible. Contract agencies may seek the assistance of the Chief, Family Services Bureau of Family Health, Iowa

Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075, in the appointment of a hearing officer.

ITEM 21. Amend subrule 76.8(9) as follows:

76.8(9) *Appeal of decision to the department.* A party receiving an unfavorable decision may file an appeal with the department. Such appeals must be filed in writing within 15 ten working days of the mailing date of the hearing decision. Appeals shall be sent to the Division Director, Family and Community Health, Contract Administrator, Division of Administration and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 22. Amend rules 641—76.9(135) and 641—76.10(135) as follows:

641—76.9(135) Grant application procedures for community-based contract agencies. Private nonprofit or public agencies seeking to provide community-based ~~Title V MCH~~ Title V MCH public health services shall file a letter of intent to make application to the department ~~no later than April 1 of~~ during the competitive year. Applications shall be to administer MCH services for a specified project period, as defined in the request for proposal, with an annual continuation application. The contract period shall be from October 1 to September 30 annually. All materials submitted as part of the grant application are considered public records in accordance with Iowa Code chapter 22, after a notice of award is made by the department. Notification of the availability of funds and grant application procedures will be provided in accordance with the department rules found in 641—Chapter 176.

Contract agencies are selected on the basis of the grant applications submitted to the department. The department will consider only applications from private nonprofit or public agencies. ~~In the case of competing applications, the contract will be awarded to the applicant that scores the highest number of points in the review.~~ In the event that competitive proposals receive an equal number of points, two department division directors and the respective bureau chief administering the program may conduct a second review utilizing the same scoring process.

641—76.10(135) Funding levels for community-based contract agencies. The amount of Title V MCH funds available to each contract agency on an annual basis shall be determined by the department using a methodology based upon dollars available, number of clients enrolled, and selected needs criteria. ~~A contract agency will receive four dollars of the available funds from the department for each one dollar of matching funds up to but not to exceed the total available funds for that contract agency.~~

ITEM 23. Amend subrule 76.11(1) as follows:

76.11(1) *Performance standards measures.* ~~The department shall establish performance standards that contract agencies shall meet in the provision of public health services. The performance standards for community-based agencies are published in the quality assurance section (501) of the MCH Administrative Manual. Copies of the performance standards are available from the Chief, Family Services Bureau, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075, or on the Iowa department of public health Web site (www.idph.state.ia.us).~~ Contract agencies that do not meet the performance standards shall not be eligible for continued funding as an MCH contract agency unless the contract agency has secured an exception must report on activities and progress toward meeting NPM, SPM, and other performance measures identified by the department.

ITEM 24. Rescind and reserve subrule **76.11(3)**.

ITEM 25. Amend subrules 76.13(1) and 76.13(2) as follows:

76.13(1) *Last pay.* ~~MCH grant~~ Title V MCH funds are considered last pay. Title XIX and other third-party payers are to be billed first if other resources cover the service.

76.13(2) *Program income.* Program income shall be used for allowable costs of the MCH program. Program income shall be used before using the funds received from the department. Excess program income may be retained to build a three-month operating capital. Program income shall be used during the current fiscal year or the following fiscal year. Five percent of unobligated program income may

be used by the contract agency for special purposes or projects provided such use furthers the mission of the MCH program and does not violate state or federal rules governing the program may be used for allowable costs of the MCH contract agency. A spending plan must be approved by the department for use of program income in excess of 5 percent above the amount approved in the program budget. Program income must be used before the funds received from the department are used. Excess program income may be retained to build a three-month operating capital.

ITEM 26. Amend subrule 76.13(4) as follows:

76.13(4) Local share. Community-based contract agencies are required to match the Title V MCH funds received from the department at a minimum rate of one dollar of local match for every four dollars received from the department. Sources that may be used for match are reimbursement for service from third parties such as insurance and Title XIX, client fees, local funds from nonfederal sources, or in-kind contributions. In-kind contributions must be documented in accordance with generally accepted accounting principles.

ITEM 27. Amend subrule 76.17(1) as follows:

76.17(1) Appeal. The appeal shall be made in writing to the department within ten days of receipt of notification of the adverse action. Notice is to be addressed to the Division Director, Family and Community Health Division, Contract Administrator, Division of Administration and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0075.

ITEM 28. Reserve rules **641—76.18** to **641—76.20**.

ITEM 29. Adopt the following new heading preceding rule **641—76.21(135)**:

MATERNAL AND CHILD HEALTH ADVISORY COUNCIL

ITEM 30. Adopt the following new rules 641—76.21(135) to 641—76.28(135):

641—76.21(135) Purpose. The MCH advisory council assists in the development of the state plan for MCH, including children and youth with special health care needs and family planning. The council assists with assessment of need, prioritization of services, establishment of objectives, and encouragement of public support for MCH and family planning programs. In addition, the council advises the director regarding health and nutrition services for women and children, supports the development of special projects and conferences, and advocates for health and nutrition services for women and children.

641—76.22(135) Mission. The mission of the MCH advisory council is to assist the department in improving coordination of and promoting an integrated health system serving children and families in Iowa. Areas of emphasis include Title V MCH and any other programs in the department that address the well-being of children and families.

641—76.23(135) Membership. Membership of the MCH advisory council shall include representatives of professional groups, agency representatives, legislators, and individuals with an interest in promoting health services for women and children.

76.23(1) Appointments to the council shall be made by the director.

a. Each appointment shall be for a term of three years, commencing on July 1.

b. No member shall serve more than two full consecutive terms (this provision may be waived by the director in exceptional cases).

c. In order to ensure that one third of the council rotates each year, staggered terms shall be initiated in June. For terms expiring during the calendar year, appointments and reappointments shall be staggered, resulting in a council with approximately one third of the terms of membership expiring in each year.

d. The goal is to attempt to implement a gender-balanced council membership.

e. The number of members shall not be fewer than 15 or more than 25.

76.23(2) The council shall be composed of the following categories:

a. Required members.

- (1) The chair (or designee) of the department's perinatal advisory committee.
- (2) The chair (or designee) of the congenital and inherited disorders advisory committee.
- (3) With approval of the director:
 1. A representative chosen by the Iowa State Association of Counties.
 2. A representative chosen by the Iowa Dental Association.
 3. A representative chosen by the Iowa Dietetic Association.
 4. A representative chosen by the American Academy of Family Physicians, Iowa chapter.
 5. A representative chosen by the American Academy of Pediatrics, Iowa chapter.
 6. A representative chosen by the American College of Obstetricians and Gynecologists, Iowa chapter.

7. A representative chosen by the state board of health.

(4) Three family representatives, appointed by the director, may represent parents with children and youth with special healthcare needs, parents with children participating in Medicaid or HAWK-I, or parents with children participating in child care or early childhood education.

b. Discretionary members. A maximum of 13 additional members from among the following may be appointed by the director:

- (1) Adolescent health.
- (2) Women's health.
- (3) Insurance (private sector).
- (4) Child care.
- (5) Legal services.
- (6) Child advocate.
- (7) Social service.
- (8) Infant mortality prevention.
- (9) University extension services.
- (10) Voluntary agency.
- (11) Children's mental health.
- (12) Youth.
- (13) Child health.
- (14) Adult mental health.
- (15) Substance abuse.
- (16) Domestic violence or sexual violence services, or both.
- (17) Juvenile justice.
- (18) Oral health.

c. Ex officio members. The following may serve as ex officio, nonvoting members of the council:

- (1) One state senator and one state representative.
- (2) The chair (or designee) of the bureau of family health grantee committee, Iowa department of public health.
- (3) A representative of the department of education, bureau of student and family support services.
- (4) A representative of the department of human services, Iowa Medicaid enterprise.
- (5) A representative of the department of human services, division of adult, children and family services, bureau of child care and community services.
- (6) Director (or designee) of Child Health Specialty Clinics.
- (7) The chair (or designee) of the early childhood Iowa board.

76.23(3) Vacancies shall be filled in the same manner in which the original appointments were made for the balance of the unexpired term. The nominations committee will make recommendations to the director for appointments.

641—76.24(135) Officers.

76.24(1) Officers of the council shall be a chairperson and a vice chairperson who shall be elected by the members at the last scheduled meeting of each fiscal year.

- a.* The term of elected office shall be one year.
- b.* A member shall not serve as chairperson for more than three full consecutive years.
- c.* Vacancies in the office of chairperson shall be filled by elevation of the vice chairperson.
- d.* Vacancies in the office of vice chairperson shall be filled by election at the next meeting after the vacancy occurs.

76.24(2) Duties of officers.

a. The chairperson shall:

- (1) Preside at all meetings of the council,
- (2) Represent the council at appropriate or designated meetings,
- (3) Appoint such committees as deemed necessary, and
- (4) Designate the chairperson of ad hoc committees.

b. The vice chairperson shall:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson shall have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform such other duties as may be assigned by the chairperson.

(3) Represent the council at designated meetings at the request of the chairperson.

641—76.25(135) Duties of the council. The council shall perform the following duties:

76.25(1) Review the state’s maternal, child, and adolescent health needs and the adequacy of health care services, programs, and providers to meet those needs.

76.25(2) Review local health statistics and program data to assess improvement in the overall health status of women and children.

76.25(3) Represent the concerns of consumers and local service providers in their relationship with the department programs and initiatives and other state agency initiatives.

76.25(4) Provide input and feedback in the development of the MCH state plan, the I-Smile™ program, family planning grant application and programming objectives, MIECHV state plan, and the WIC state plan, including the assessment of need, the prioritization of services and the establishment of objectives.

76.25(5) Identify potential collaborative partners to help achieve the mission and goals of the MCH advisory council and the department.

76.25(6) Disseminate information and report back to representative consumer groups and local providers regarding department programs, initiatives, services, and state plans.

641—76.26(135) Meetings.

76.26(1) Meetings of the council will be held as necessary and at the call of the director or the chairperson. There shall be a minimum of four meetings per year.

a. At the last scheduled meeting of the fiscal year, the regular meetings for the following year will be scheduled.

b. Notice of meetings will be sent at least two weeks prior to the meeting date.

c. Materials for the meeting will be sent at least one week prior to the meeting date.

76.26(2) All meetings are open to the public in accordance with the open meetings law, Iowa Code chapter 21.

76.26(3) A majority of the required and discretionary membership shall constitute a quorum.

76.26(4) At all meetings of the council, the act of the majority of the members present at the meeting shall be the act of the council.

76.26(5) Meeting attendance.

a. Attendance shall be expected at all meetings unless circumstances prohibit attendance.

b. Participation by telephone or other means is permissible so long as arrangements can be made by the department for such participation.

c. Three unexcused absences per fiscal year shall result in termination of membership as determined by the director or the director's designee.

76.26(6) The council shall maintain information sufficient to indicate the results of each vote. If necessary, members may be polled telephonically or electronically.

76.26(7) Subcommittees shall meet as necessary.

641—76.27(135) Executive committee.

76.27(1) The executive committee shall be composed of the chairperson and vice chairperson, assisted by two members appointed by the chairperson at the beginning of the fiscal year.

76.27(2) The executive committee will meet as necessary to act on behalf of the full council to develop a recommendation when the council is not in session.

76.27(3) The executive committee may request staff support and assistance from department management.

641—76.28(135) Committees. The council may designate one or more committees to perform such duties as may be deemed necessary.

76.28(1) The chairperson appoints the nominations committee, which will submit a slate of potential members and officers.

76.28(2) Additional committees or ad hoc committees may be formed as needed.

76.28(3) Committees should be utilized whenever possible to review particular substantive areas by previewing recommendations, framing issues for the larger group and presenting on issues that need to be addressed by the council.

ITEM 31. Amend **641—Chapter 76**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section 135.11~~ subsection 135.11(17).